

Internal Revenue Service

Department of the Treasury

District
Director

Date: AUG 11 1985

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Ladies and Gentlemen:

We have considered your application for tax exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented reveals that you were incorporated on [REDACTED] in the State of [REDACTED].

The purposes for which the corporation is formed are to provide a professionally supervised environment for short term care (maximum four hours) of children ages eighteen months to six years old and provide high quality care in a non-profit-low cost operation.

In the news clipping submitted it states that the service provided by your organization is used by reserving time, preferable twenty-four hours in advance, before dropping off the child. Children can be dropped off any time within operating hours as long as a reservation is made. A three-hour per month volunteer commitment is required of all mothers. An annual registration fee of \$[REDACTED] per family is required and hourly rates are charged for the service.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, etc.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3) of the Regulations states that the term educational, as used in section 501(c)(3), relates to the instruction or training of the individual for the purposes of improving or developing his capabilities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 501(k) of the Code provides for the exemption from Federal income tax of organizations providing child care if substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and the services provided by the organization are available to the general public.

Revenue Ruling 68-166 provides that an organization formed to operate a day care center for young children of needy working parents who had no means to provide care for their children during the day may qualify as a charitable organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

In *San Francisco Infant School, Inc. v. Commissioner of Internal Revenue*, the court held that where custodial services were incidental to its educational purposes, the organization qualified for exemption from taxation as an educational organization.

The information available demonstrates that [REDACTED] is organized and operated as a custodial service for members. Unlike the organizations in Revenue Ruling 68-166 and *San Francisco Infant School*, you will primarily be providing a custodial service and any educational activities are incidental. You also do not meet the requirements under section 501-k since services are not on a regular basis making it evident that working parents would not be able to utilize the service enabling them to be gainfully employed.

In addition you fail to qualify as a school since you do not normally maintain a regular faculty and curriculum and do not have a regularly enrolled body of pupils or students.

(3)

Accordingly, it is held that you are not organized and operated exclusively for charitable or education purposes and thus fail to qualify for tax exempt status under section 501(c)(3) of the Code.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Very truly yours,



District Director

Enclosure: Pub. 892